

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DIVISION OF TEXAS  
BEAUMONT DIVISION**

\_\_\_\_\_  
No. 1:08-CR-62  
\_\_\_\_\_

United States of America

v.

Artric Jamal Davis

Defendant

\_\_\_\_\_  
Report and Recommendation Re Motion To Suppress  
\_\_\_\_\_

Pending is defendant's motion to suppress wherein defendant argues that physical, documentary and other evidence seized in connection with a stop and arrest of defendant and subsequent search on December 18, 2007 violated his Fourth, Fifth and Sixth Amendment rights. The motion was referred to the undersigned for hearing and determination of all the issues on September 3, 2008.

Discussion

The motion was set for evidentiary hearing on September 15, 2008, and then reset twice due to disruptions caused by or related to Hurricane Ike. The most recent setting was for Tuesday, October 7, 2008, at 1:30 p.m.

Defense counsel has informed the court that defendant has decided to plead guilty to Count I of his original indictment (violation of 18 U.S.C. § 922(g)(1)),<sup>1</sup> and has signed a written plea agreement to that effect on October 3, 2008. The agreement is to enter an unconditional guilty plea. Accordingly, the motion to suppress is moot.

#### Recommendation

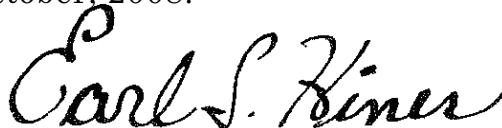
Defendant's "Motion to Suppress Evidence" (Docket No. 24) should be denied as moot.

#### Objections

Objections must be: (1) specific, (2) in writing, and (3) served and filed within ten days after being served with a copy of this report. See 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 1(a), 6(b), and 72(b).

A party's failure to object bars that party from: (1) entitlement to *de novo* review by a district judge of proposed findings and recommendations, see Rodriguez v. Bowen, 857 F.2d 275, 276-77 (5th Cir. 1988), and (2) appellate review, except on grounds of plain error, of unobjected-to factual findings and legal conclusions accepted by the district court. See Douglas v. United Servs. Auto. Ass'n., 79 F.3d 1415, 1417 (5th Cir. 1996) (en banc).

SIGNED this 8 day of October, 2008.



EARL S. HINES  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> A superseding indictment containing three counts was returned on September 4, 2008.